

REMARKS

This is in response to the non-final Office Action mailed June 18, 2008. The Examiner notes that claims 1-22 are pending and rejected.

In view of the following discussion Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §103. Thus, Applicant believes that all of the pending claims are now in allowable form.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

I. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §103

A. Claim 22

The Examiner has rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,477,262 to Banker et al. (hereinafter "Banker") in view of U.S. Patent 4,706,121 to Young (hereinafter "Young"), U.S. Patent 5,412,416 to Nemirofsky (hereinafter "Nemirofsky") and U.S. Patent 4,845,662 to Tokumitsu (hereinafter "Tokumitsu"). Applicant respectfully traverses the rejection.

Specifically, the Applicant respectfully submits that Banker, Young, Nemirofsky and Tokumitsu, alone or in any permissible combination fail to teach or suggest combining the packaged plurality of television programs and generated program control information before performing compression, providing a means for compressing the packaged television programs and the program control information and the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence. Specifically, independent claim 22 relates to a television delivery system, and recites:

22. A television delivery system for generating an interactive electronic

program guide for display on a television connected to the set top terminal, the system comprising:

an operations center comprising:

a means for packaging a plurality of television programs;

a means for generating program control information including data associated with the packaging of the television programs;

a means for combining the packaged plurality of television programs and the generated program control information before performing compression;

a means for compressing the packaged television programs and the program control information; and

a means for delivering the compressed packaged television programs and the compressed program control information from the operations center to a subscriber;

a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:

a microprocessor for executing program instructions;

a graphic memory;

a graphic generator to generate graphics from the graphic memory;

a first decompression hardware for decompressing a video signal of the compressed packaged television programs;

a second decompression hardware for decompressing the compressed program control information; and

a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator; wherein the terminal generates an electronic program guide

comprising:

a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection; and

a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus, wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input; and

a cursor for navigation of the menus, wherein the cursor movement corresponds to the user input and assists in the selection of one or more main menu items wherein the menus are linked in a tree sequence, and the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence.

The Examiner asserts that Nemirofsky bridges the substantial gap left by Banker, Young and Tokumitsu. Specifically, the Examiner asserts that Nemirofsky teaches combining the packaged plurality of television programs and generated program control information before performing compression and providing a means for compressing the packaged television programs and the program control information. The Applicant respectfully disagrees.

Nemirofsky teaches two different embodiments for sending video signals and control signals. One embodiment is an analog embodiment where control signals are inserted into the vertical blanking interval in the analog video. (See Nemirofsky, col. 6, ll. 31-33). Notably, the video and control signal are not compressed in the analog embodiment.

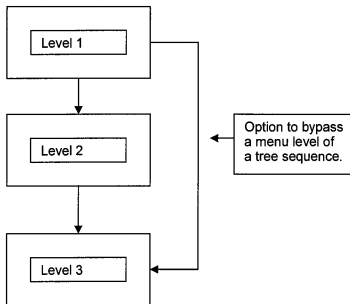
In a second digital embodiment, Nemirofsky teaches that the control signals are transmitted separately from the video programs on a digital source channel. (See *Id.* at col. 7, ll. 3-5, emphasis added). In other words, Nemirofsky teaches one embodiment where the video is combined with the control signal, but not compressed (i.e. the analog embodiment) or where the video and control signal are compressed, but transmitted separately (i.e. the digital embodiment). Therefore, Nemirofsky fails to teach or suggest combining the packaged plurality of television programs and generated program control information before performing compression and providing a means for compressing the packaged television programs and the program control information.

Moreover, the Applicant respectfully submits that Banker, Young, Nemirofsky and Tokumitsu, alone or in any permissible combination fail to teach or suggest the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence. As stated by the Examiner, Banker fails to teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence," as recited in independent claim 22.

The Examiner asserts that because when the prime menu exits and the MG menu is displayed that the MG menu is a sub-menu of the PG menu. (See Office Action dated 6/18/08, p. 3, § b.). The Applicant respectfully disagrees.

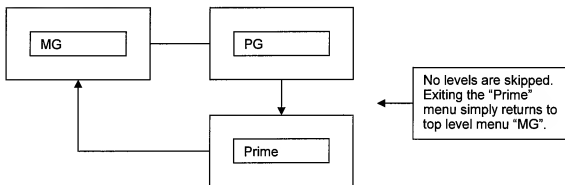
The Applicant attempts to provide a diagram below to help illustrate the Applicant's argument. To illustrate, the Applicant's independent claim 22 recites wherein bypassing comprises skipping a menu level of the tree sequence. As an illustrative example only, the claim limitation may be illustrated in FIG. 1 as follows:

FIG. 1: Illustrative Example Applicant's Claim Limitation.



In contrast, the teachings of Young may be illustrated as follows in FIG. 2 below.

FIG. 2: Teachings of Young



Thus, as illustrated above, when the Prime menu is exited and the MG menu is displayed, the Prime menu simply returns to the top level menus as illustrated by FIG. 7. (See Young, FIG. 7). In other words, as previously argued and illustrated above, Young fails to teach or suggest the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence. Nemirofsky fails to bridge the substantial gap left by Banker, Young and Tokumitsu.

Accordingly, Applicant submits that independent claim 22 is non-obvious and patentable under 35 U.S.C. §103 over the combination of Banker, Young, Nemirofsky and Tokumitsu. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

B. Claims 8-21

The Examiner has rejected claims 8-21 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of U.S. Patent 5,539,871 to Gibson (hereinafter "Gibson") and Young, Nemirofsky and Tokumitsu. Applicant respectfully traverses the rejection.

Independent claim 8 recites certain features similar to those of claims 22 and 8, e.g., a means for combining the packaged plurality of television programs and the generated program control information before performing compression and wherein the overlay menu is displayed in response to a signal received from a user input and wherein the overlay menu is in a series of menus that are linked in a tree sequence and the subscriber interface comprises the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence.

As such, the combined teaching of Banker, Young, Nemirofsky and Tokumitsu fails to teach or suggest at least the above features.

Since there is no argument put forth in the Office Action that Gibson teaches or suggests the above missing features, the combined teaching of Gibson, Banker, Young, Nemirofsky and Tokumitsu still would not have resulted in Applicant's invention of claim 8.

As such, independent claim 8 is patentable under 35 U.S.C. §103(a) over Banker in view of Gibson, Young, Nemirofsky and Tokumitsu. Claims 9-21 depend, directly or indirectly from independent claim 8 while adding additional elements. Therefore, claims 9-21 are also non-obvious and patentable over Banker in view of Gibson, Young, Nemirofsky and Tokumitsu under §103. As such, Applicant respectfully requests that the Examiner's rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

C. Claims 1-7

The Examiner has rejected claims 1-7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,410,326 to Goldstein (hereinafter "Goldstein") in view of Banker, Young, Nemirofsky and Tokumitsu. The rejection is traversed.

Independent claim 1 recites certain features similar to those of claims 22 and 8, e.g., a means for combining the packaged plurality of television programs and the generated program control information before performing compression and wherein the series of menus are linked in a tree sequence and the subscriber interface comprises the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence.

As such, the combined teaching of Banker, Young, Nemirofsky and Tokumitsu fails to teach or suggest at least the above features.

Since there is no argument put forth in the Office Action that Goldstein teaches or suggests the above missing features, the combined teaching of Goldstein, Banker, Young, Nemirofsky and Tokumitsu still would not have resulted in Applicant's invention of claim 1.

As such, Applicant submits that independent claim 1 is patentable under 35 U.S.C. §103(a) over Goldstein in view of Banker, Young, Nemirofsky and Tokumitsu.

Claims 2-7 depend, directly or indirectly from independent claim 1 while adding additional elements. Therefore, claims 2-7 are also non-obvious and patentable over Goldstein in view of Banker, Young, Nemirofsky and Tokumitsu under §103 for at least the same reasons that claim 1 is patentable over

Goldstein in view of Banker, Young, Nemirowsky and Tokumitsu under §103. As such, Applicant respectfully requests that the rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

Thus, Applicant submits that all of the claims presently in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Chin (Jimmy) Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 9/18/08



Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808